

**UNITED STATES DISTRICT COURT FOR  
UNITED STATES DISTRICT COURT**

Case No.: Cv 09-479-HA Lead Case

Date of Order: 9/6/2011

Case Title: Rainier Economic Development Council v. United States Gypsum Company et al

Settlement Judge: Hon. Michael H. Simon

Courtroom Deputy: Mary Austad (503) 326-8034

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**PLAINTIFF'S COUNSEL**

**John T. Kaempf**

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**DEFENDANT'S COUNSEL**

**Kathleen C. Bricken**

**Stephen M. Seidel**

**Stephen D. Petersen**

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**DOCKET ENTRY:**

These two consolidated cases have been assigned to Judge Michael H. Simon for a settlement conference to be held on Monday, October 3, 2011. This settlement conference will involve only Rainier Economic Development Council, United States Gypsum Company and the City of Rainier. If any other party desires to participate in the settlement conference on October 3, 2011, please contact Mary Austad at (503) 326-8034. Participating counsel and their clients should come to Courtroom 13B, on the 13th floor of the Mark O. Hatfield U. S. Courthouse, 1000 S. W. Third Avenue, Portland, Oregon, at 9:00 a.m. on the day of the conference. Counsel should be accompanied in person by a client representative with full settlement authority. No later than 5:00 p.m. on September 26, 2011, counsel should deliver to Judge Simon's chambers (either by hand delivery or by email to [Mary\\_Austad@ord.uscourts.gov](mailto:Mary_Austad@ord.uscourts.gov)) a confidential presettlement conference statement not to exceed ten pages (exclusive of exhibits) that discusses the following:

1. The nature of the conflict, including a brief summary of the key claims, counterclaims, cross-claims, defenses, operative facts (disputed and undisputed), and legal issues (disputed and undisputed);
2. Your candid description and assessment of the three best and worst facts for each side of the dispute;
3. Your client's interests or needs with respect to the resolution of the dispute;
4. Any resolutions that could be achieved by settlement that would not otherwise be attainable through a trial or other formal disposition of the case;
5. The name of the client representative with settlement authority who will be attending the settlement conference, along with any relevant description of that person's role in or history with the dispute;
6. Your candid assessment of the litigation risks, including your best estimate of the fees and costs, of going forward with the case rather than resolving this dispute by settlement;
7. A description of the settlement negotiations to date, including an explanation of what issues have been resolved or tentatively resolved by settlement Judge Ashmanskas, what issues remain to be resolved, and what are the primary obstacles to resolving those remaining issues;
8. Any specific case law, statutory or regulatory provisions, or evidentiary matter that you would like Judge Simon to review as he prepares for this settlement conference; and
9. Anything else that you believe Judge Simon should know in order to work most effectively with counsel and the parties in this settlement conference.

In addition, after reasonable consultation with opposing counsel, please bring to the settlement conference either an electronic or a print copy of a draft settlement agreement appropriately leaving space or lines for those points or terms that remain to be negotiated and agreed upon.

Finally, please note that all communications made to Judge Simon in connection with this settlement conference will be kept strictly confidential and not disclosed to anyone, including the trial judge